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8 TRAFFICSCHOOL.COM, INC. and
DRIVERS ED DIRECT, LLC, California companies.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

12 TRAFFICSCHOOL.COM, INC.,
13 a California corporation; DRIVERS ED
DIRECT, LLC, a California limited
liability company

Plaintiffs.

vs.

EDRIVER, INC., ONLINE GURU, INC., FIND MY SPECIALIST, INC., and SERIOUSNET, INC., California corporations; RAVI K. LAHOTI, an individual; DOES 1 through 10.

Defendants.

) Case No. CV 06-7561 PA (Cwx)

The Honorable Percy Anderson

**DECLARATION OF MINA I.
HAMILTON IN SUPPORT OF
PLAINTIFFS' MOTION FOR
CONTEMPT AGAINST
DEFENDANTS FOR VIOLATION OF
THE COURT'S INJUNCTION AND
FOR SANCTIONS**

Date: January 26, 2009
Time: 1:30 p.m.
Courtroom: 15

DECLARATION OF MINA I. HAMILTON

I, Mina I. Hamilton, declare as follows:

3 1. I am a partner with the law firm of Lewis Brisbois Bisgaard & Smith LLP
4 and I have personal knowledge of the contents set forth herein, and if called as a
5 witness to testify thereto, I could competently and truthfully do so.

6 2. Attached hereto as Exhibit "A" is a true and accurate copy of the Court's
7 final Judgment and Permanent Injunction entered on August 26, 2008, Docket # 215.

8 3. Attached hereto as Exhibit "B" is a true and accurate copy of an email with
9 attachments that I sent Defendants' counsel Mr. Brian Daucher related to Plaintiffs'
10 motion for contempt, with the following particulars:

11 a. In the September 3, 2008 email from me to Mr. Daucher with the
12 subject “DMV.ORG-Injunction Non-Compliance-2nd Notice (25162-14),” among other
13 things, I informed Mr. Daucher of an image that was appearing on the splash screen
14 page <http://www.dmv.org/ca-california/drivers-ed.php#> and attached a copy of a screen
15 shot of that page that I made on 9/3/08 at 9:45 a.m. which shows the Teen Drivers
16 Education advertisement appearing on the splash screen.

17 b. Also, in the same September 3, 2008 email, I informed Mr. Daucher
18 of “title tag” text that was appearing on the splash screen pages, and attached copies of
19 screen shots of exemplar pages that I made on 9/3/08 which shows text appearing in the
20 top portion of the splash screen (in the blue browser bar), such as “California Drivers
21 Ed Online Guide-CA Driver Education Information- DMV.ORG” (9:45 screen shot)
22 and “DMV Guide-DMV.ORG-Department of Motor Vehicles guide-Windows Internet
23 Explorer” (9:41 screen shot).

24 4. Attached hereto as Exhibit "C" is a true and accurate copy of the
25 September 3, 2008 email reply to me by Mr. Daucher to the aforementioned email, in
26 which Mr. Daucher states "FYI, our clients did identify the error on the screen shot and
27 have fixed it..."

1 5. Attached hereto as Exhibit "D" is a true and accurate copy of another
2 email with attachments that I sent to Defendants' counsel Mr. Daucher. In that
3 September 22, 2008 email with the subject "DMV.ORG-Injunction Non-Compliance-
4 4th Notice (25162-14)," I informed Mr. Daucher that the splash screen was displaying
5 "drop down" menus of county listings in New York and New Jersey that directed the
6 visitor to DMV.ORG's providers of driving school and/or traffic school without the
7 visitor ever clicking on the 'continue' button. I attached copies of screen shots of four
8 of those pages which show a drop down menu displayed on the screen page entitled
9 "Choose Your County," as well as an example of a list of counties and the resulting
10 advertisement to "American Safety Classes" defensive driving classes on the
11 DMV.ORG site.

12 6. Attached hereto as Exhibit "E" is a true and accurate copy of the
13 September 23, 2008 email reply to me by Mr. Daucher to the aforementioned email, in
14 which Mr. Daucher states "I can see the problem on the link. We are looking into and it
15 will be fixed..."

16 7. In a later email dated September 24, 2008, a true and accurate copy of
17 which is attached hereto as Exhibit "G", Mr. Daucher states: "The most recent issue
18 you raised with the dropdowns on four pages (of the 5,000+ pages of the web site) were
19 simply a technical bug, that has been resolved."

20 8. After numerous back and forth communications regarding various other
21 contempt issues, I sent Mr. Daucher an email on September 23, 2008, a true and
22 accurate copy of which is attached hereto as Exhibit "F" and entitled "DMV.ORG-
23 Injunction Non-Compliance-Recap and 5th Notice (25162-14)," intending to summarize
24 Plaintiffs' positions and the status of Defendants' responses with regard to the
25 DMV.ORG logo issue, the title tag issue, the mobile device issue, the drop down menus
26 issue, and the drivers education advertisement issue. I also brought other non-
27 compliance issues to the attention of Mr. Daucher at that time, such as the Java Script
28 and "cookies" issues.

1 9. Attached hereto as Exhibit "G" is a true and accurate copy of the
2 aforementioned summary email to Mr. Brian Daucher and Mr. Daucher's response
3 thereto whereby he states, among other things, the following:

4 "The fact is that the imposition of a splash page is a
5 complicated undertaking that will require refinement and
6 adjustments over time. Our clients are not experts in splash
7 page mechanics, and there are technical limitations to splash
8 page functionality."

9 10. Attached hereto as Exhibit "H" is a true and accurate copy of my
10 September 24, 2008 email seeking a specific response from Mr. Daucher regarding the
11 mobile device issue and Mr. Daucher's September 25, 2008 response whereby he
12 states, among other things, the following: "With respect to mobile devices, further
13 technical work is ongoing, but it is operative in most cases."

14 11. On December 16, 2008, I confirmed that the DMV.ORG splash screen still
15 displayed "title tag" text in the blue bar of the web browser. Attached hereto as Exhibit
16 "I" is a true and accurate copy of selected screen shots of the splash screen that I made
17 on that day. After creating the screen shots, I added a circle which identifies the title
18 tag text and the corresponding URL. The precise title tag text that appeared on the
19 splash screen depended on the URL or pathway link that I used to access the dmv.org
20 domain. For example, when I typed in www.dmv.org into the address bar of my web
21 browser, I was directed to the splash screen that contained the following title tag text:
22 "DMV.ORG-DMV Guide-The Unofficial Guide to the DMV-Windows Internet
23 Explorer." However, when I did a search in Google for "California traffic schools" and
24 clicked on the resulting link of www.dmv.org/ca-california/traffic-schools.php, the title
25 tag text on the DMV.ORG splash screen changed to "California Traffic Schools Online
26 Guide- Find CA Internet Traffic Ticket School Info – DMV.ORG – Windows Internet
27 Explorer." Other searches and resulting links displayed different title tag text, including
28 "Drivers Ed Online Guide-Online & Classroom Driver Education Info-DMV.ORG-

1 Windows Internet Explorer” (for the URL www.dmv/drivers-ed.php), “New York
2 Ticket & Traffic School Guide-DMV.ORG-Windows Internet Explorer” (for the URL
3 www.dmv.org/ny-new-york/tickets-driving-schools.php), and “Texas Traffic Schools
4 Online Guide-Find TX Internet Traffic Ticket School Info-DMV.ORG-Windows
5 Internet Explorer” (for the URL www.dmv.org/tx-texas/traffic-schools.php). These
6 selected examples are displayed in Exhibit I.

7 12. Attached hereto as Exhibit "J" are true and accurate copies of print-outs
8 from the website located at www.onlineguru.com with asterisks next to the following
9 statements:

- a. "6 Million Unique Visits Per Month";
 - b. "30 Million-Plus Page Views Per Month"; and
 - c. "By targeting numerous high growth website categories (Automotive...) we have aligned ourselves to capitalize on the continued growth of these categories. Through this diversification and strategic alignment, OnlineGURU is well positioned for exponential growth in the years ahead."
 - d. "On what we call The Path to Onlightenment, the company turns out top-ranking sites such as the flagship, DMV.ORG-The Unofficial Guide to the DMV. With more than 65 million users a year, it's become one of the Top Five automotive sites and one of the Top 300 Web sites in the United States."
 - e. "DMV.ORG has become such a widely used resource, we'll use it as a model to develop the other 5,000 domain names held by our company."

25 13. Attached hereto as Exhibit "K" is a true and accurate copy of an October
26 13, 2008 news article from the Los Angeles Times that states (on the last page) the
27 following: "The mobile Web is next, and companies are jostling to provide technology
28 and applications used by consumers. About 11% of North American adults use the

1 Internet on their cellphones at least once a month, and an additional 6% do it less
2 frequently, according to Forrester.”

3 14. Attached hereto as Exhibit "L" is a true and accurate copy of a May 30,
4 2008 article from Information Week entitled "BlackBerry Leads, iPhone Follows U.S.
5 Smartphone Sales" discussing that for the first three months of 2008, the BlackBerry
6 "grabbed 44.5% of the market" and that Palm was in third place for sales.

7 15. Attached hereto as Exhibit "M" is a true and accurate copy of a December
8 30, 2008 print-out from the website of The Internet Advertising Bureau located at
9 www.iab.net that states, in relevant part: "The Internet Advertising Bureau (IAB) is
10 comprised of more than 375 leading media and technology companies who are
11 responsible for selling 86% of online advertising in the United States."

12 16. Attached hereto as Exhibit "N" is a true and accurate copy of the
13 September 4, 2008 email reply to me by Mr. Daucher to my email regarding the
14 DMV.ORG logo issue. Also attached is a true and accurate copy of a screen shot that I
15 made of my computer screen when I viewed the dmv.org logo attachment that Mr.
16 Daucher attached to the same email. In this email to me, Mr. Daucher states, *inter alia*,
17 the following:

- 18 a. "The Injunction requires all caps 14 point font for the disclaimer,
19 which we have adhered to."

20 b. "If we make the letters "DMV.ORG in the logo less than 14, as you
21 suggest, the logo becomes illegible (see attached)...."

22 I declare under penalty of perjury under the laws of the State of California that
23 the foregoing is true and correct and that this Declaration was executed on January 4,
24 2009, at Los Angeles, California.

Mina I. Hamilton